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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1263 Session of  
2007

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INTRODUCED BY GOODMAN, COHEN, CONKLIN, GEORGE, GIBBONS,  
HENNESSEY, McILHATTAN, PETRONE, SURRA AND YOUNGBLOOD,  
MAY 18, 2007

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
MAY 18, 2007

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AN ACT

1 Establishing a moratorium on the issuance of certain permits  
2 relating to municipal waste landfills; providing for  
3 rescission of unused capacity, for municipal control and for  
4 rebuttable presumptions and defenses; authorizing grants for  
5 municipal recycling improvements; and prescribing penalties.

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4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 101. Short title.

7 This act shall be known and may be cited as the Municipal  
8 Solid Waste Control Act.

9 Section 102. Purpose.

10 The General Assembly declares the purposes of this act as  
11 follows:

12 (1) To provide municipalities across this Commonwealth  
13 with the ability to control the disposal of solid waste in  
14 their communities.

15 (2) To ensure the protection of public health and  
16 safety.

17 (3) To provide a means of reconciling the amount of  
18 solid waste that is disposed of in this Commonwealth with the  
19 amount of solid waste that is permitted to be disposed of in  
20 this Commonwealth.

21 (4) To provide municipalities with the ability to impose  
22 restrictions upon solid waste disposal facilities within  
23 their borders.

24 (5) To preserve and extend the existing solid waste  
25 disposal capacity within this Commonwealth.

26 Section 103. Definitions.

27 The following words and phrases when used in this act shall  
28 have the meanings given to them in this section unless the  
29 context clearly indicates otherwise:

30 "Affected municipality." A municipality within one mile of

1 the proposed facility that is on an approach route to a facility  
2 regulated by this act or that is otherwise adversely impacted by  
3 a facility.

4 "Daily volume." The amount of solid waste actually disposed  
5 of each day at a facility.

6 "Department." The Department of Environmental Protection of  
7 the Commonwealth.

8 "Facility." A municipal waste landfill,  
9 construction/demolition waste landfill, resource recovery  
10 facility or commercial residual waste disposal facility.

11 "Gross vehicle weight." The combined weight of a vehicle or  
12 combination of vehicles and its load, excluding the driver's  
13 weight.

14 "Host municipality." A city, borough, incorporated town,  
15 township or home rule municipality within which a facility is  
16 located or proposed to be located or has been permitted but not  
17 constructed.

18 "Municipal Waste Planning, Recycling and Waste Reduction  
19 Act." The act of July 28, 1988 (P.L.556, No.101), known as the  
20 Municipal Waste Planning, Recycling and Waste Reduction Act.

21 "Permitted daily volume." The amount of solid waste  
22 permitted by the Department of Environmental Protection to be  
23 disposed of at a facility each day.

24 "Region." The geographical area designated by the Department  
25 of Environmental Protection for each of its regional field  
26 operations.

27 "Secretary." The Secretary of Environmental Protection of  
28 the Commonwealth.

29 "Solid waste." Solid waste as defined in the act of July 7,  
30 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

1 "Solid Waste Management Act." The act of July 7, 1980  
2 (P.L.380, No.97), known as the Solid Waste Management Act.

3 "Transporter." The owner of a semitrailer used for the  
4 transportation of municipal or residual waste.

5 Section 104. Moratorium.

6 (a) General rule.--For a period of two years from the  
7 effective date of this section, and subject to continuation of  
8 such period under subsection (b):

9 (1) The department may not accept an application for a  
10 permit modification nor issue a permit or permit modification  
11 under the Solid Waste Management Act for the construction,  
12 expansion or operation of a facility.

13 (2) The department may not accept for review nor issue a  
14 permit modification that would result in an increase in  
15 average daily volume or maximum daily volume at a facility.

16 (b) Review of Statewide landfill capacity and usage.--

17 (1) Ninety days before the expiration of the two-year  
18 moratorium period set forth in subsection (a), the secretary  
19 shall review Statewide landfill capacity and usage.

20 (2) If the secretary determines that unused Statewide  
21 landfill capacity continues to be equal or more than six  
22 years of unused landfill capacity remains, then the  
23 moratorium shall continue for one additional year beyond the  
24 original ending date of the moratorium and the secretary  
25 shall publish notice of such continuation as a notice in the  
26 Pennsylvania Bulletin.

27 Section 105. Rescission of unused capacity.

28 (a) Duty of secretary.--The secretary shall rescind  
29 permitted daily volume amounts which exceed the actual daily  
30 volume amounts as calculated by the department in accordance

1 with subsection (b).

2 (b) Calculations by department.--The department shall  
3 calculate actual daily volume amounts by averaging the disposal  
4 of actual daily volume at each facility for the preceding 12-  
5 month period. Any amount of daily volume in excess of the  
6 determined actual daily volume shall be subject to the  
7 rescission under subsection (a).

8 Section 106. Public comment.

9 A proposed host municipality agreement shall be made  
10 available for public comment and review at least 60 days prior  
11 to adoption. During this 60-day public comment period, the  
12 municipality shall publish this notice on the municipal Internet  
13 website, if one exists, at the main municipal office, if one  
14 exists, and in a local newspaper and in the local newspaper of  
15 any affected municipality.

16 Section 107. Municipality control.

17 (a) Denial of permits.--The governing body of a host  
18 municipality may deny any permit or permit modification for a  
19 facility located in the municipality, except as provided in  
20 subsection (c).

21 (b) Affected municipality.--The governing body of an  
22 affected municipality may deny a permit or permit modification  
23 for a facility located within 3,500 feet of a public water  
24 source within the affected municipality.

25 (c) Exception for public need.--

26 (1) Neither the host municipality nor an affected  
27 municipality may deny a permit or permit modification of a  
28 facility located in the municipality if the department  
29 determines that there is a public need for the additional  
30 capacity contained within that permit or permit modification.

1           (2) The public need for additional capacity shall be  
2 determined by the department, at least every three years, by  
3 totaling the available disposal capacity within that region.  
4 If the total disposal capacity within that region is at or  
5 below the two-year capacity, the department may issue a  
6 certificate of public need which shall override any host  
7 municipality or affected municipality denials of permits or  
8 permit modifications.

9           (3) The department may issue permits and permit  
10 modifications within that region until such time as the  
11 permitted capacity within that region reaches the seven-year  
12 capacity.

13 (d) Public hearing.--

14           (1) If the department determines to issue a certificate  
15 of public need under subsection (c), the department shall  
16 conduct at least one public hearing in the host municipality  
17 before the permit or permit modification is approved. The  
18 public hearing shall be scheduled with a minimum of 30 days'  
19 public notice prior to the hearing date. A comment period of  
20 not less than 60 days shall be provided to accept written  
21 comments on the permit or permit modification.

22           (2) At the public hearing, the department shall present  
23 information, including, but not limited to:

24               (i) The nature of the proposed facility.

25               (ii) The site of the proposed facility or expansion  
26 of existing facility.

27               (iii) The potential generators of waste.

28               (iv) The life expectancy of the proposed facility or  
29 expansion of existing facility.

30               (v) An explanation of the host municipality's and

1 affected municipality's rights with regard to abatement  
2 of nuisances at the facility, including, but not limited  
3 to, traffic problems, litter, odors, noise, dust or other  
4 nuisances that may emanate from the facility or that may  
5 increase daily volume at the facility.

6 Section 108. Rebuttable presumption and defenses.

7 (a) Liability of facility operator.--It shall be rebuttably  
8 presumed, as a matter of law, that a facility operator is liable  
9 without proof of fault, negligence or causation for all  
10 pollution or diminution of public or private water supplies  
11 within 2,500 linear feet of the boundaries of the facility.

12 (b) Defenses limited.--There shall only be five defenses to  
13 the rebuttable presumption of liability provided for in  
14 subsection (a). A facility operator must affirmatively prove by  
15 a preponderance of evidence that one of the following conditions  
16 exists:

17 (1) The landowner is not within 2,500 linear feet of the  
18 facility boundary.

19 (2) The landowner or water supply company refused to  
20 allow the facility operator access to conduct a survey prior  
21 to commencing operations.

22 (3) The pollution or diminution existed prior to  
23 facility operation as determined by a survey conducted prior  
24 to commencing facility operations.

25 (4) The pollution or diminution occurred as a result of  
26 some cause other than the facility operation.

27 (5) The landowner, water supply user or water company  
28 refused to allow the facility operator access to determine  
29 the cause of pollution or diminution or to replace or restore  
30 the water supply.

1 Section 109. Grants for municipal recycling improvements.

2 (a) Authorization.--

3 (1) The department shall pay \$5,000,000 in fiscal year  
4 2008-2009 from the Recycling Fund to municipalities that  
5 propose to significantly increase their recycling efforts.  
6 The department shall pay an additional \$5,000,000 from the  
7 Recycling Fund in each of the two following fiscal years to  
8 municipalities that propose to significantly increase their  
9 recycling efforts. For the fiscal year 2007-2008 and the two  
10 following fiscal years, the department shall continue to  
11 award other recycling grants under the Municipal Waste  
12 Planning, Recycling and Waste Reduction Act at or above the  
13 current level of funding.

14 (2) For the purposes of this section, a significant  
15 increase in recycling efforts is defined as a 10% or more  
16 increase in recycling percentage or recycling tonnage.

17 (b) Application and use of grant funds.--

18 (1) On an application form approved by the department,  
19 each municipality shall detail its plans to significantly  
20 improve recycling percentage or tonnage. A municipality that  
21 is awarded a grant under this section shall spend those grant  
22 funds only for the purposes and programs detailed on its  
23 grant application and approved by the department in its grant  
24 award.

25 (2) A municipality awarded a State grant under this  
26 section must agree to maintain its level of municipal funding  
27 for recycling programs at or above the level of the previous  
28 year. No municipality may receive more than \$1,000,000 a year  
29 from this grant program.

30 (c) Regulations.--In the second and third year of this



1 program, the department shall promulgate regulations to  
2 implement this section.

3 Section 110. Proximity to public water supplies.

4 (a) General rule.--A new municipal waste or residual waste  
5 landfill may not be permitted to operate within 2,500 feet of a  
6 public water source.

7 (b) Definitions.--As used in this section, the terms  
8 "municipal waste" and "residual waste" shall have the meanings  
9 given those terms in section 103 of the act of July 28, 1988  
10 (P.L.556, No.101), known as the Municipal Waste Planning,  
11 Recycling and Waste Reduction Act.

12 Section 111. Proximity to State parks.

13 (a) General rule.--A new municipal waste or residual waste  
14 landfill or resource recovery facility may not be permitted to  
15 operate within 2,500 feet of a Pennsylvania State park.

16 (b) Definitions.--As used in this section, the terms  
17 "municipal waste," "residual waste" and "resource recovery  
18 facility" shall have the meanings given those terms in section  
19 103 of the act of July 28, 1988 (P.L.556, No.101), known as the  
20 Municipal Waste Planning, Recycling and Waste Reduction Act.

21 Section 112. Disclosure.

22 The department shall require an applicant for a municipal  
23 landfill permit to disclose in the application whether a person  
24 who is not one of the applicant's officers, directors or  
25 employees listed in the permit application was paid or promised  
26 payment, to help plan, manage or advise the applicant about the  
27 structure or activities of the applicant's organization or about  
28 the application for a permit for this facility or the operation  
29 of the proposed facility after receiving this permit. The  
30 person's name, business name, address, the amounts paid or

1 promised to be paid and the person's role shall be required.

2 Section 113. Regulations.

3 Within 120 days of the effective date of this section, the  
4 department shall promulgate rules and regulations to administer  
5 the provisions of this act.

6 Section 114. Repeal.

7 All acts and parts of acts are repealed insofar as they are  
8 inconsistent with this act.

9 Section 115. Effective date.

10 This act shall take effect as follows:

11 (1) Sections 103 and 104 shall take effect immediately.

12 (2) This section shall take effect immediately.

13 (3) The remainder of this act shall take effect in 60  
14 days.